

THE SEWER BOARD OF THE CITY OF NEW ALBANY, INDIANA HELD A MEETING IN THE 3RD FLOOR ASSEMBLY ROOM OF THE CITY/COUNTY BUILDING, NEW ALBANY, INDIANA ON TUESDAY, JULY 17, 2007 AT 3:30 P.M.

PRESENT: Chairman Mayor James Garner, Vice Chairman Bill Utz, Kevin Zurschmiede, Todd Solomon and Larry Kochert.

OTHERS: Attorney Greg Fifer, Tim Crawford, Brian Dixon and Rob Sartell, EMC, and City Clerk Marcey Wisman.

CALL TO ORDER:

Mayor Garner called the meeting to order at 3:35 p.m.

PLEDGE OF ALLEGIANCE:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. Solomon moved to approve the meeting minutes of July 3, 2007 as corrected, Mr. Kochert second, all voted in favor

COMMUNICATIONS - PUBLIC:

Phil Gambrel, on behalf of IUS, addressed the student housing for IUS and the sewer connection fees. He explained that previously there was a \$12,000 cap on sewer taps and they have recently removed that but about 5 years ago when the library was built the tap fee was waived. He stated that they will be connecting to the privately owned sewer lines of the University and they will be connecting to that existing system. He referenced section 51.102 of the sewer regulations to support his request to waive the tap fee.

Mr. Solomon stated that 5 years ago this board was not in place, and the reason the sewer finances are in such bad shape is because they gave so much away and didn't maintain the finances. He explained that they have a lot of improvements that they have to do in the next five years and they have to rely on those tap fees to help offset the cost of these improvements, and if they allow this to happen then they will be lined out the door with similar situations asking to waive the fees. He stated that he has sympathy for their situation but he has had the same sympathy for many different projects in the same satiation but they have to maintain these fees.

Mr. Gambrel stated that \$214,000 is an extravagant amount of for tap fee. He stated that this would not be year round housing and there would be very few students there during the summer months. He explained that the study done by Clark Dietz found that the system has the capacity.

Mr. Solomon stated that when another facility comes online that doesn't have capacity they will have to upgrade the line. He explained that whether or not you are causing the line to exceed capacity you are taking up space in that line and that is what tap fees are designed to take care of.

Mr. Kochert stated that Purdue will be coming on-line soon and they will want free tap fees as well if they hear that IUS received them.

Mr. Taksar, IUS Chancellor of Finances, spoke in favor of waiving the tap fees for the student housing. He explained the advantages of the project and explained a little about their non-profit organization and how it is supporting the need and demand for student housing at IUS. He stated that their goal is to keep the kids in state by providing them all the opportunities they would get with going away to another University.

Mr. Utz stated that would break down to \$536 per student.

Mayor Garner stated that it would be \$536 per room.

Mr. Fifer asked Ms. Haley how she figured the tap fees.

Mrs. Haley stated by the number of bedrooms

Mr. Fifer reviewed the code that Mr. Gambrel quoted and stated that this section was meant to be used when an existing structure was demolished and rebuilt within a year to waive the tap fee. He stated that in this situation he believes that either the board would need to go to the council to get authority to waive this tap fee or have an ordinance passed setting an institutional rate.

Mr. Zurschmiede asked if Mr. Fifer was saying that the board doesn't have the authority to waive the fee.

Mr. Fifer stated that he believes that was the intent of the amendment that the City Council recently passed.

Mr. Gambrel stated that the language in this section states that any new and or improved structure and that is what they are doing.

Mr. Fifer asked if he knew how we ended up with private sewers at the university.

Mr. Gambrel stated that he does not know how that came to be, but the university does own and maintain their lines and that they do pay their monthly charges.

Mr. Kochert stated that the monthly fee is just not adequate to cover all the expenses and that is why they have a tap fee.

Mr. Zurschmiede stated that the only reason that the City is able to handle the extra flow is because of \$40 M in expenses in the past five years. He stated that they have to keep the fee rate the way it is or they open themselves up to having to increase rates again.

Jason Copperwaite presented a drawing for added developments on Grantline Road behind the Arby's. He stated that this development would actually flow to two different basins and they would both need a capacity study. He did not know if he should have a joint study for the entire project or split them up according to what basin they would be going to.

Mr. Solomon stated that since it is going to two different basins they will need to do different studies.

Jerry Brewer Sr. & Jr. addressed the board regarding an addition to his business at 2143 Willow Street. He explained that this business was started 35 years ago and they now have plans for an addition to the back of the building that will double their office. He stated that the tap that they had was ample but that they are adding three additional toilets and urinals but no new employees are scheduled to be hired. He stated that this is basically to modernize their equipment and add space but they have no immediate plans to hire new employees.

Mr. Fifer stated that if they are not going to add employees have them fill out an application for 100 credits

Mayor Garner discerned that it is an existing tap and not a new tap.

Mr. Fifer said to take the ten new estimated employee's X 20 with a minimum of one new tap fee and that should be sufficient.

Mr. Kochert moved to approve 200 credits and a new tap in fee, Mr. Solomon second, all voted in favor.

Gary Brinkworth addressed the board regarding Mr. Winterheimer's project in basin 35. He explained that he spoke with Mr. Ruckman earlier who stated that he is not going to move forward with his project until after Basin 35 is complete.

Mr. Dixon stated the stopping point for Basin 35 phase II was arbitrary and they do have an estimate for that. He explained they are a few hundred feet north of the ending point and they suggested that phase 2 could be extended out to pick them up but he doesn't know if the board is willing to go with the phase 2 project at this time or if they want to wait for additional contributions to compensate.

Mr. Elling stated that it ends north of Carver.

Mr. Dixon stated that what Mr. Brinkworth is asking is what he would have to do in order to get the phase II projects started.

There was a lengthy discussion regarding the time period for the basin 35 rebuild and whether or not there would be there is existing capacity for Mr. Winterheimer's project and the industrial park.

Mr. Brinkworth explained that Mr. Winterheimer will probably not even start building until next year and he wouldn't build it all at once, but in phases just like the sewer project.

Mr. Fifer stated that he would like to have a meeting with Mr. Ruckman, Mr. Christmas, Mr. Brinkworth and Mr. Dixon this week to discuss this issue.

Mayor Garner stated that he didn't think the Council would look favorably on annexing this property if they were waiting on sewers.

Mr. Fifer stated that they aren't obligated to provide sewers at the Cities expense to underdeveloped property.

Mr. Dixon stated that they had a meeting approximately a month ago and asked them what they would give them and then still haven't gotten any firm numbers.

Mr. Fifer stated that he has what he thought was some firm numbers but apparently that has changed and they need to investigate this.

Mr. Dixon stated that they will have to get some type of response from them positive or negative so that they can move from there and they have asked for this repeatedly.

Mr. Fifer stated that the only other alternative if they have to connect 35 is to go to redevelopment and ask if they will consent to jumping in front of them because they are giving them \$900,000 but he doesn't think they can do that in whole or in part until they give their consent. He stated that there would be 40,000 gallons in additional capacity created by phase 1.

Mr. Christmas clarified that it would be 32,000 gallon and 43 acres or 104 homes.

Mr. Fifer stated that they have only approved phase 1 and the only reason they have money for this is because of funding from redevelopment.

Mayor Garner asked what the estimated cost of phase 2 was.

Mr. Dixon stated that it is estimated at half a million.

Mr. Fifer asked if they only did phase 1 and they exceeded 32,000 gallons where would they be at risk of over-flowing.

Mr. Christmas stated there was a low area close to a subdivision close to the KFC.

Mr. Fifer stated that they can't trade one overflow for the other.

Debra Murray, regarding her sewer lien she was not given credit for a \$154.34 check.

Mrs. Welsh explained that her payment was credited but that when they defaulted on the payment plan they added the late fees back on. She stated that a lien was placed on 711 W Market Street in the amount of \$186.15 and she was sent notification of the delinquency and the lien.

Ms. Murray stated that this was for a different amount and she wasn't given any notice.

Mr. Fifer stated that the notice was given before she came in the first time and she was the one that requested that it be put on hold.

Ms. Murray stated that she doesn't know anything about this new charge that Ms. Welsh is talking about and asked if any notification was sent about it.

Mr. Welsh stated that this was from a Helvey account and that notification was sent to 711 W Market but that they do not keep sending new notifications each time a new amount is due.

Mr. Fifer stated that the only notice obligation that they have is when the bill is more than 60 days over-due and asked if all the new ones were Helvey accounts.

Ms. Murray stated that she didn't know anything about these new ones and she didn't receive any notification about them.

Mr. Fifer asked her if that would have made any difference because they haven't even paid the recent bills so it is unlikely that they would have paid the previous ones.

Ms. Murray said that she would like to know if they are even her bills.

Ms. Welsh stated that they have this property on contract and it is still under the same owner's name.

Mayor Garner explained to Ms. Murray that it would be up to her and the person that owns the property to work that out how they are going to pay it.

Mr. Fifer stated that Ms. Welsh's office did the only thing they could and that was to put the lien against the current owner of the property which is Neel Family, LLC.

Ms. Murray stated that her issue is that they are not being notified of the bills and then there is a lien placed on the property in a larger amount. She explained that she thought the money she was paying was going to the original amount of the bill.

Mr. Fifer stated that if there is a good defense to the lien he would be glad to consider it.

Ms. Welsh explained that all they can verify is the amount was owed from the Helvey accounts and never paid. She stated that they cannot get any specific dates on the bills other than the years that the bills were accrued.

Mr. Zurschmiede asked how Ms. Murray was aware of the problem if she wasn't notified.

Ms. Murray stated that the lien was filed in a different amount than what she was notified of on the pre-lien letters.

Mayor Garner asked Ms. Welsh to send a new letter to Neel Property LLC. So that he is aware of the lien and he can make arrangements to pay it off.

Ms. Welsh stated that she did notify Neel Family LLC for the new lien and assumed he sent it on to Ms. Murray but that she would send a new one with all the information.

COMMUNICATIONS - CITY OFFICIALS

SEWER ADJUSTMENTS:

Mrs. Welsh presented the following adjustment:

Kimberly Davis, 221 Galt Street, New Albany, in the amount of \$1,468.35 for a leak in the line from the meter.

Mr. Solomon stated that it looks like a good claim to him but he believes that it was figured incorrectly.

Mr. Solomon moved to approve the credit for \$1518.63, Mr. Kochert second, all voted in favor.

Troy and Dawn Bennett, 3064 E. Lobo Ridge, requested a billing adjustment in the amount of \$8,017.59.

Mr. Solomon stated that even though he has been resistant to changing the schedule this gentleman made a very good point when he stated that they are keeping the rate artificially low by banking on people that pay for sewage when they are not using the sewer system. He stated that this gentleman has a valid argument and he just wanted that on record.

Ms. Welsh stated that is what she hears all day long is that the water is not going into the sewer system and she realizes that the cost of a new meter is ridiculous.

Mayor Garner stated that there is a valid argument in adding May to the summer watering program and dropping October.

Mr. Utz moved to change the summer watering program next year to May through September,

Mr. Solomon stated that he believes that there are a lot more people in the area that use irrigation than there are that use pools.

The motion died for the lack of a second.

Mayor Garner asked if anyone would like to make a motion on the Bennett claim.

Ms. Welsh presented a letter from a Mr. Wimp regarding liens filed by Helvey and he wants to file a Class Action suit.

NEW BUSINESS:

Item #1 - Troy Bennett re: sewer bill 3064 E Lobo Ridge

Item #2 - Darryl Boone re: summer billing program.

Item #3 - Brent Schroeder re: request for sewer credits

Brent Schroeder stated that he took his plans to Brian Dixon.

Mr. Dixon stated that he will be tying into the Robert E. Lee line.

Mr. Schroeder stated that he has 7 lots that he will be developing light industrial and there is interest in all the lots. He stated that he doesn't believe the buildings will be finished before next year.

Mr. Solomon stated that he could not vote for this because the engineers would not certify this project because of the capacity for this pump station and if this caused an over-flow they would have to answer to EPA.

There was a lengthy discussion regarding the problems the board faces with the Robert E. Lee pump station.

Mayor Garner asked if anyone would like to make a motion to let him reserve 1400 credits for a year to use once the lift station is finished.

Mr. Kochert asked Mr. Fifer if he thinks that they are setting a bad precedence.

Mr. Fifer stated that he is concerned that they are at risk of civil penalties for capacity related over-flow but he believes that they could have an agreement that he can have the 1400 credits but that they understand they can not make a connection until after the Robert E. Lee project is completed.

Mr. Kochert made a motion to approve reserving 1400 credits for Pike Park and no connection can be made until after the Robert E. Lee Force Main and Pump station is completed, Mr. Solomon second, all voted in favor.

Mr. Fifer will prepare a letter based on

Item #4 - Bernie Kaelin re: sewer adjustment on billing.

Mrs. Welsh stated that he had a similar situation as the Bennett's

OLD BUSINESS:

Item #1 - Donohue re: Project Update

Mr. Elling stated that the boring has been completed on 15th street and the analysis has begun. He reported that he has actually spoken with someone from CSX but none of them have in information regarding work being done on 15th Street. He also reviewed the contract with Pipe Eyes and found some discrepancies that Brian was going to send to them.

Mr. Dixon reported that he did send them the discrepancies and they sent him a revised contract, but he found a few more discrepancies and he sent it back to them and told them that he needed something by today, but they never got back with him.

Mayor Garner asked him to put the screws to them.

Mr. Elling stated that until the geotechnical work is done he can not move forward on 15th Street. He reported that on the Master Plan he has received information from Hans Peterson and the County Plan Commissioner and he will be proceeding with this information. He also received information from Scott Wood and Kelly Welsh and plans to pull all of this data together over the next month.

Mr. Utz asked when the plan to finish the Master Plan

Mr. Elling stated that they do not plan to finish it until next year around March because they were asked to go on the go-slow approach because of the funding.

Mr. Utz asked if there was anyway to speed up this project because he believes this information is needed.

Mr. Elling stated that he would look as the schedule and see if they could move this up. He stated that he has a copy of the draft agreement for Basin 35 and after the conversation earlier he isn't sure if they are going to be able to move forward with this.

Item #2 - Clark Dietz re: Project Update

Mr. Christmas reported on an up-date for Basin 35 and the line that will be going through the KFC property. He went over his drawings showing where the KFC built over the city's easement.

There was a lengthy discussion regarding the problem with the easements in the area and the new plan for laying the line for basin 35.

Mr. Christmas stated that he just needs to know what they would prefer because he needs to revise his plans for bidding the project out. If this seems to be the correct route for the board he would need Mr. Fifer to do a new easement.

Mr. Fifer stated that they would need to get a survey done.

Mr. Christmas stated that the geotech work is done for Basin 18 and he is waiting to receive the survey.

Mr. Fifer reported that there is at least 2 ½ acres of vacant land off of Daisy Lane and he was wondering is there was some benefit to putting in a retention basin in there to prevent some of the run off water.

Mr. Christmas did not believe that this would benefit this basin.

Mr. Dixon reported the best thing to do in this area is to dredge the creek.

Mr. Tekippe reported that they have put in a competitive bid for Basin 35 phase I and phase II for them to review and perhaps they could have a separate meeting where the two companies could discuss their bids.

Mr. Solomon stated that in his opinion Clark Dietz has the best advantage

Mayor Garner asked what they want to do with Amendment #2 for phase I.

Mr. Tekippe explained this is the construction portion of this project and includes all the inspection costs.

Mr. Solomon motioned to approve Amendment #2, Mr. Utz second, all voted in favor.

EMC REPORT:

Mr. Sartell reported on a tort claim on Griffin Street they cleaned it in 2005. He recommended they approve the amount of \$5598.67.

The board decided to hold this until the next meeting.

Rob Sartell had a quote from Hagmen Enterprises to install the conveyor belt to remove grit and rags and it is half the amount figured into the CAP Plan.

Mr. Utz moved to approve, Mr. Solomon second, all voted in favor.

Mr. Sartell stated that Delta has been working on the quote for the 10th Street

Mr. Dixon reported on the line in South Audubon. He has a letter to go out to the residents to obtain an easement. The ad for the Lewis Street bids is ready to go out and if it is okay with the board he will go ahead with this. He also looked into the pavement problems that Mr. Kochert asked about. He reported on the Montessori School and stated that the lady from the school could not be here tonight but she can come to the next meeting

Mr. Solomon asked if he got any information on Grant line

There was a lengthy discussion regarding the schools

Mr. Solomon presented a list of parting recommendations for the board that he reviewed with the board. Said recommendations are on file with the City Clerk's office. He asked if when they did the consent decree compliance list they finished all the issues with the Charlestown Road lift station.

Mr. Sartell stated that there is still a situation with the relay cube that went bad but they have been changed out.

Mayor Garner thanked Todd for serving the Sewer Board and keeping them on their toes.

BIDS:

CLAIMS:

ADJOURNMENT:

There being no further business before the Sewer Board, the meeting adjourned at 6:48 p.m.

Respectfully submitted,

Mayor James Garner, Chairman

Marcey Wisman, City Clerk